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80th plenary meeting
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New York

President: Mr. Diogo Freitas do Amaral ..... (Portugal)

The meeting was called to order at 10.25 a.m.

Agenda items 39 and 96

Law of the sea

Report of the Secretary-General (A/50/713)

Draft resolution (A/50/L.34)

Environment and sustainable development

(c) Sustainable use and conservation of the marine living resources of the high seas

Reports of the Secretary-General (A/50/549, A/50/550, A/50/553)

Note by the Secretary-General (A/50/552)

Draft resolutions (A/50/L.35, A/50/L.36)

The President: This morning, the General Assembly, pursuant to its decision taken at the 3rd plenary meeting, will consider agenda item 39, entitled "Law of the sea", together with sub-item (c) of agenda item 96, entitled "Sustainable use and conservation of the marine living resources of the high seas".

I call on the representative of Fiji to introduce draft resolutions A/50/L.34, A/50/L.35 and A/50/L.36.

Mr. Nandan (Fiji): Before introducing the three draft resolutions that the Assembly is to consider today, I would like to make a few remarks in my capacity as President of the Meeting of States Parties to the 1982 United Nations Convention on the Law of the Sea.

Last year was a very special year for the law of the sea. The General Assembly welcomed a most important event in the life of an international treaty, that is the entry into force of the treaty. In the case of the 1982 Convention, which entered into force on 16 November 1994, the event was particularly significant in the light of the controversy that had attached to a part of it for more than a decade, until the adoption by the General Assembly, on 28 July 1994, of the Agreement relating to the Implementation of Part XI of the Convention.

The immediate effect of this Implementation Agreement was to extend the consensus that prevailed in respect of most of the Convention to the Convention as a whole. It also made it possible for the Convention to enter into force with universal support.

This year is yet another important year for the Convention in that it is possible to see the tangible proof of the fact that the Convention has moved out of an era of controversy into the domain of consensus. There are now 83 Parties to the Convention. They represent States from the five continents. Among these are developed and developing countries, coastal States and land-locked States, major maritime Powers and small States. The number of States parties is steadily growing. There is

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good prospect, indeed indication, that it will reach the milestone of 100 — or close to that — within the next six months. This would indeed be a remarkable achievement for an endeavour which began some 25 years ago, and for a comprehensive, complex and multi-faceted treaty which requires extensive adjustments in national laws and considerable accommodation to the new responsibilities that accompany the rights and duties of States. The Convention has radically changed or revised the traditional law of the sea and with that, the political map of the world. It has set out new rules for the use of the oceans and the management of its resources and established a balance between competing users.

The law of the sea has come a long way in the last 400 years since the debates of Hugo Grotius and John Selden. Most significant changes have occurred during the 50 years of the United Nations. It has been a subject which has preoccupied the Organization since its inception, as is evident from the three major Conferences on the Law of the Sea that it convened. It was not until the third Conference that the whole of the international community was fully represented, and the issues relating to the law of the sea were dealt with comprehensively and in a single Convention. Only in this way could accommodation be established between the rights of individual States and the freedoms and interests of the international community as a whole. Thus, at last it was possible to find an accommodation for the different historical approaches to law of the sea, characterized by, "mare liberum" of Hugo Grotius and "mare clausum" of John Selden. This achievement of the 1982 United Nations Convention on the Law of the Sea was highlighted by the Secretary-General of the United Nations on 16 November 1994 in his address to the inaugural meeting of the International Seabed Authority when he said:

> "The dream of a comprehensive law of the oceans is an old one. Turning this dream into a reality has been one of the greatest achievements of this century. It is one of the decisive contributions of our era. It will be one of our most enduring legacies."

The need for a comprehensive Convention on the Law of the Sea arises from the increased use of the oceans in the twentieth century. Mankind's activities are no longer limited to navigation and communication and to coastal fishing. Modern law of the sea has to take into account the increasing and ever-competing activities in the oceans. These are highlighted by the increase in commerce and communication, unforeseen technological developments aimed at the utilization of ocean resources, and increased awareness of the importance of the oceans in the welfare of mankind and its critical role in the well-being of our planet.

The entry into force of the Convention and the healthy support it enjoys must now be translated into its full and proper implementation. Much has already been achieved in this regard, and this is reflected in the national practice of States and in their relations with other States on maritime issues. However, much remains to be done at national, regional and global levels.

One of the principal elements on which the norms contained in the Convention are premised is cooperation between States in the implementation of its provisions. The entry into force of the Convention itself has triggered new activities and the need for new areas of cooperation between States. The new institutions created by the Convention have now to be organized and made operational. This process has already begun. The inaugural meeting of the International Seabed Authority was held in Kingston, Jamaica, from 16 to 18 November 1994, and the Authority has since held two additional meetings. It is to be hoped that the Authority will complete its organizational phase and begin its substantive mandate during this year.

Three Meetings of States Parties to the Convention have already been held in preparation for the establishment of the International Tribunal for the Law of the Sea. It has been decided that the election of the members of the Tribunal will take place on 1 August 1996. Last year the Secretary-General was requested by the General Assembly to undertake certain transitional and preparatory work for the establishment of the Tribunal. It is expected that the Secretariat will continue to take the necessary steps for the preparation for the Tribunal as a follow-up to the mandate in paragraph 11 of resolution 49/28.

States parties are also in the process of preparing for the election of members of the Commission on the Limits of the Continental Shelf, which will now take place in March 1997.

The International Tribunal for the Law of the Sea, the International Seabed Authority and the Commission on the Limits of the Continental Shelf are essential components in the global system for the rule of law in the oceans and the maintenance of peace and security in over 70 per cent of our globe. The establishment of these bodies coincides with the current mood for financial

stringency and austerity. It is to be hoped that the operations of these bodies will not be frustrated because of present financial difficulties, for to do so would be to undermine the effectiveness of the Convention as a whole.

Pursuant to the decision of the General Assembly last December, the Secretary-General of the United Nations assumed the new responsibilities assigned to him as a consequence of the Convention's entry into force. These are reflected in the report of the Secretary-General contained in document A/50/713. This report, which is comprehensive and rich in information and which analyses the developments and trends in ocean-related matters, is an outstanding contribution to the international community. It serves as an important vehicle for information, on the one hand, and for the promotion of uniform and consistent application of the Convention, on the other. It keeps the international community abreast with the multitude of developments on ocean-related matters, the trends in the practice of States and global and regional organizations and bodies. It highlights activities in the different sectors of marine affairs and warns the international community of the divergence and detractions which might threaten the consistent application of the Convention.

One very significant conclusion that can be drawn from this year's report of the Secretary-General is the remarkable degree of uniformity that has evolved in the practice of States as a consequence of the Convention. Who would have thought that there would be some 130 States that adopted the 12-mile or less territorial sea limit, or that more than 110 States would adopt a 200-mile exclusive economic zone or fisheries zone?

The Convention is a dynamic instrument. While it sets out detailed provisions in some areas, it provides certain basic principles for further development in others. It leaves open the possibility for further elaboration of these principles in the light of experience in its implementation and the changing state of the world's oceans.

One such area where further elaboration of the Convention principles was necessary in the light of experience was identified by the 1992 Rio Conference on Environment and Development. That was the area where the problem of unregulated fishing on the high seas and over-utilization and lack of adequate management of fish resources as a whole was noted.

The Rio Conference called for a conference to address those problems with particular reference to straddling fish stocks and highly migratory fish stocks. The Conference that was convened by the General Assembly three years ago concluded its work yesterday by opening for signature an Agreement which it had adopted by consensus in August 1995. The Agreement was signed yesterday by 26 States and will remain open for signature for one year from yesterday's date, 4 December 1995, at United Nations Headquarters. It is to be hoped that the Agreement, which addresses the urgent problems of fisheries management in respect of the two types of stocks, will come into force quickly after 30 ratifications or accessions. The Agreement is a product of consensus and I hope that the spirit of consensus will be manifested in a tangible way by all those who were partners in the negotiations. The best service that coastal States and distant water fishing States can render to the international community is to become parties to the Agreement and proceed to implement its terms as soon as possible.

As Chairman of the Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, let me take this opportunity to express my sincere appreciation to all those who worked so hard and cooperated in making the Agreement on a difficult, complex and emotionally charged issue possible. The principles enshrined in the Agreement will not only benefit those who are concerned with straddling fish stocks and highly migratory fish stocks, but will set new standards for the management of all marine living resources.

Let me conclude this part of my statement, which deals with developments relating to the implementation of the Convention, by saying that, overall, the Convention is in good shape. It has come out of the shadows. It has steered through the shoals and reefs and it is headed towards the open sea with a full sail and a steady wind of universal support behind it.

I am very privileged to introduce, on behalf of the sponsors, the three draft resolutions that are before the General Assembly for its consideration.

The first draft resolution is presented under item 39 of the General Assembly's agenda and is contained in document A/50/L.34. It has been sponsored by the States listed in the draft resolution, and the following additional States who have joined the list of sponsors: Cape Verde, Guyana, Lebanon and Myanmar.

In this draft resolution on the item "Law of the sea", the General Assembly would, *inter alia*, emphasize the universal character of the 1982 United Nations Convention on the Law of the Sea and its fundamental

importance for the maintenance and strengthening of international peace and security, as well as for the sustainable use and development of the seas and oceans and their resources.

It would note that States Parties to the Convention have been meeting in preparation for the establishment of the International Tribunal for the Law of the Sea and the Commission on the Limits of the Continental Shelf and that the International Seabed Authority has had its organizational meetings during 1995 and has scheduled two meetings for 1996.

In the operative part of the draft resolution, the General Assembly would, *inter alia*, call upon all States that have not done so to become parties to the Convention and also to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea in order to achieve the goal of universal participation in the Convention. The Assembly would also call upon States to harmonize their national legislation with the provisions of the Convention and ensure its consistent application.

It would approve the servicing by the Secretary-General of two meetings of the International Seabed Authority during 1996. It would also authorize the Secretary-General to continue with the staff and facilities of the Secretariat in Kingston until the Secretary-General of the Authority is able to assume effective responsibility for the Authority's Secretariat.

The Assembly would request the Secretary-General to convene three meetings of States Parties to the Convention during 1996 for the purpose of organizing the International Tribunal for the Law of the Sea and the election of its members, as well as to deal with matters relating to the establishment of the Commission on the Limits of the Continental Shelf. In doing so, the Assembly would note with appreciation the progress made in the practical arrangements for the establishment of the International Tribunal for the Law of the Sea, and in preparations for the establishment of the Commission ion the Limits of the Continental Shelf.

The Assembly would express its appreciation to the Secretary-General for the annual comprehensive report on the law of the sea and the activities of the Division for Ocean Affairs and the Law of the Sea in the Office of Legal Affairs, which is contained in document A/50/713. It would emphasize the importance of ensuring the uniform and consistent application of the Convention and a coordinated approach to its effective implementation, and of strengthening technical cooperation and financial assistance for that purpose, and reiterate the continuing importance of the Secretary-General's efforts to those ends. It would invite competent international organizations and other international bodies to support those objectives.

Finally, the Assembly would request the Secretary-General to report to it at its fifty-first session on the implementation of the resolution in connection with his annual comprehensive report on the law of the sea. It would also decide to include in the provisional agenda of its fifty-first session an item entitled "Law of the sea", with a sub-item entitled "Reports of the Secretary-General".

The second draft resolution is contained in document A/50/L.35 and is presented under agenda item 96 (c). It deals with the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. The sponsors of the draft resolution are those listed in the draft resolution; in addition, Cape Verde has joined the list of sponsors.

In this draft resolution the Assembly would, *inter alia*, recall its resolutions concerning the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks and would take note of the report of the Secretary-General on the work of the Conference contained in document A/50/550. It would also take note of the two resolutions adopted by the Conference, the first of which deals with the early and effective implementation of the Agreement adopted by the Conference, and the second which contains a request to the Secretary-General to report on developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks. It would recognize the importance of the regular consideration and review of developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.

In its operative part, the draft resolution would express its appreciation to the Conference for discharging its mandate with the adoption of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

It would welcome the fact that the Agreement was opened for signature on 4 December 1995 and emphasize the importance of early entry into force and effective implementation of the Agreement. It would call upon all States and entities entitled to become Parties to sign and ratify or accede to the Agreement and to consider applying it provisionally.

It would request the Secretary-General to report to the General Assembly at its fifty-first session, and biennially thereafter, on developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks, taking into account the information provided to him by States, specialized agencies — in particular the Food and Agriculture Organization of the United Nations (FAO) — and other appropriate intergovernmental bodies, including regional and subregional organizations that deal with the subject matter, as well as relevant non-governmental organizations. It would further request the Secretary-General to ensure that reporting on all major fishing activities and instruments is effectively coordinated and duplication of activities and reporting minimized, and it would invite the relevant specialized agencies — including FAO and regional and subregional fisheries organizations and arrangements — to cooperate with the Secretary-General to that end.

Finally, the Assembly would decide to include in the provisional agenda of its fifty-first session, under the item entitled "Law of the sea", a sub-item entitled "Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks".

The third draft resolution, which is contained in document A/50/L.36, is also presented under agenda item 96 (c). It deals with large-scale pelagic drift-net fishing, unauthorized fishing in areas under national jurisdiction, and fisheries by-catch and discards. It is co-sponsored by the States listed in the draft resolution and by Argentina.

In the preambular part of the draft resolution, the General Assembly would, *inter alia*, reaffirm its previous resolutions concerning large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's seas and oceans. It would recall its two resolutions of last year, the first concerning unauthorized fishing in areas under national jurisdiction and its impact on the living marine resources of the world's seas and oceans, and the second concerning fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources.

It would recognize that efforts have been made to reduce by-catch and discards in fishing operations and that further work needs to be done in this area. It would express its concern at the detrimental impact of unauthorized fishing on the sustainable development of the world's fishery resources and on the food security and economies of many States, particularly developing States.

It would take note of the reports of the Secretary-General on large-scale pelagic drift-net fishing and on unauthorized fishing, contained in documents A/50/553 and A/50/549, and also of FAO's report on fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources, contained in the annex to document A/50/552.

It would acknowledge with appreciation the measures taken and the progress made by the international community, and international entities and organizations, to implement and support the objectives of resolution 46/215, on large-scale pelagic drift-net fishing on the high seas and the world's seas and oceans. It would, however, express its deep concern that there are continuing reports of activities inconsistent with the terms of resolution 46/215 and unauthorized fishing inconsistent with the terms of resolution 49/116.

In the operative part of the draft resolution, the General Assembly would reaffirm the importance it attaches to full compliance with resolution 46/215, in particular to those provisions of the resolution calling for full implementation of a global moratorium on all large-scale pelagic drift-net fishing.

It would call upon States to take measures to ensure that no fishing vessels entitled to fly their flags fish in areas under the national jurisdiction of other States unless duly authorized by the competent authorities of the coastal State or States concerned, such authorized fishing operations being carried out in accordance with the conditions set out in the authorization. It would request the Secretary-General to bring the resolution to the attention of all members of the international community and relevant intergovernmental organizations and bodies, and to submit to the General Assembly at its fifty-first session a report on further developments relating to the implementation of resolutions 46/215, on large-scale pelagic drift-net fishing; 49/116, on unauthorized fishing

in areas under national jurisdiction; and 49/118, on by-catch and discards and their impact on the sustainable use of the world's living marine resources.

Finally, it would decide to include in the provisional agenda of its fifty-first session, under the item entitled "Law of the sea", a sub-item entitled "Large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas; unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas; and fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources".

On behalf of the respective co-sponsors of the three draft resolutions contained in document A.50/L.34, A/50/L.35 and A.50/L.36, I commend the draft resolutions for adoption by the Assembly.

The President: I should like to propose that the list of speakers in the debate on this item be closed today at 12 noon.

I hear no objection.

It was so decided.

The President: I therefore request those representatives wishing to participate in the debate to add their names to the list as soon as possible.

Mr. Tobin (Canada): I am pleased to have this opportunity, on behalf of the people of Canada, to bring remarks on this occasion marking the conclusion of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.

For centuries, men and women of good will have sought to enlarge and perfect international law. Their aspirations have been shaped by the understanding of nature and society of their era. Thus, the development of international law will always be a work in progress.

In 1608, the Dutch lawyer Grotius wrote:

> "Most things become exhausted by promiscuous use. This is not the case with the sea. It can be exhausted neither by fishing nor by navigation, that is, the two ways in which it can be used."

(spoke in French)

Based on that understanding of nature and society, Grotius propounded the law of freedom of the seas. For his time and his understanding, Grotius spoke wisely.

(spoke in English)

In 1987, the World Commission on Environment and Development, better known as the Brundtland Commission, wrote that

> "without agreed, equitable, and enforceable rules governing the rights and duties of States in respect of the global commons, the pressure of demands on finite resources will destroy their ecological integrity over time". *(A/42/427, p. 258, para. 2)*

(spoke in French)

This is the understanding of our time. We have sought to develop a new international law to give effect to the principle of sustainable development.

(spoke in English)

The decisive step was the 1982 Convention. Its scope and comprehensiveness are unrivalled in international law. It is the single greatest accomplishment in the history of conventional international law. Yet, as we who participated in the Conference know, the 1982 Convention fell short in at least one respect: the high-seas-fisheries provisions. The problem quite simply has been that the high-seas obligations are stated in such general terms that they are not a practical guide for States in the conduct of their international relations. More importantly, they are not a specific guide for our conduct in the high-seas-fisheries zones.

The seriousness of high-seas overfishing was highlighted by Chairman Nandan in his opening remarks to the Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks in April of 1993. Ambassador Nandan said, in quoting the Food and Agriculture Organization of the United Nations (FAO),

> "In many high seas areas, inadequate management and over-fishing are recognized as major problems. The need to control and reduce fishing fleets operating on the high seas is now being internationally admitted because excessive fishing is endangering the very sustainability of high-seas fisheries resources."

Ambassador Nandan and the FAO Committee on Fisheries recognized that in every ocean of the world, with the possible exception of the Indian Ocean, fleets fishing on the high seas are threatening straddling stocks and highly migratory species.

I submit to the Assembly that nowhere has this threat been greater than it has been to straddling stocks on the Grand Banks of Newfoundland. These resources were gravely depleted by high-seas fisheries from the late 1950s to the mid-1970s. They had sustained a coastal way of life for 500 years, and yet in a relatively short span of time they were depleted. The establishment of the 200-mile limit in 1977 seemed to promise a new era of rebuilding. That era was short-lived.

For eight years after 1977, all parties to the Northwest Atlantic Fisheries Organization (NAFO), which was formed to manage straddling stocks and other stocks on the Grand Banks, cooperated in order to conserve and rebuild these resources.

(spoke in French)

The problems that emerged in the 1980s are well known. They pushed straddling stocks to the brink of commercial extinction by the mid-1990s.

(spoke in English)

This is why, for Canada, a new fisheries convention to effectively implement the high-seas-fisheries provisions of the 1982 Convention and thereby protect straddling stocks is a national priority. Indeed, it remains a national priority for Prime Minister Chrétien and his Government.

At the outset of the Conference leading to this new convention, which we celebrate, the prospects for success, frankly, seemed bleak. Coastal States and distant-water fishing States eyed one another on occasion with a measure of suspicion. Coastal States sought to assert their interests over straddling stocks and highly migratory species on the high seas. Distant-water fishing States sought to protect their freedom to fish on the high seas. And there was deep division over whether the Conference should conclude with a declaration or with a convention. In the end, these substantial differences were bridged by compromise, pragmatism and, most important, good will. I submit that all of this was made possible by the exceptional leadership of our Conference Chairman, Ambassador Nandan. When necessary he reminded us of the seriousness of the problems we faced and the urgent need to arrive at practical solutions. This message was reinforced by non-governmental organizations, which played an important role at the Conference, as they had at the United Nations Conference on Environment and Development (UNCED).

I believe the new convention approved by the Conference is a permanent, practical and enforceable means to end high-seas overfishing. Canada will devote as much energy to working to see this convention ratified as it brought to bear in seeing it negotiated. I believe that we have all worked too hard for a cause that is too important to rest on our oars now. When it comes to conservation, we are all in the same boat. We must continue to work together. When the convention is implemented — and I am confident that it will be — then regional fisheries organizations will make sound conservation decisions that will be adhered to in practice.

I sense that support for a new conservation ethic was born at that Conference and is building internationally. The strongest signal was the adoption of the new fisheries convention by the Conference in August and its opening for signature yesterday. I note that some 26 countries have already signed the agreements and some 46 have signed the Final Act. I sensed this new commitment to conservation in the effective new control measures adopted by NAFO in September. I saw an example of this new commitment to conservation when the United States became a party to NAFO and to the FAO compliance Agreement as well. I sensed this new commitment to conservation when I met with representatives of Pacific island nation States in October. I saw the new commitment to conservation at work at the FAO Ministerial Meeting held in Quebec City later that same month. I saw this new conservation ethic at work again yesterday when I heard Senator Ted Stevens, senior Senator from Alaska and Chairman of the Oceans and Fisheries Subcommittee of the Commerce Committee, commit himself personally to seeing this convention ratified by the United States Government.

The new commitment — a meaningful, tangible, measurable commitment to conservation — was at work in St. John's, Newfoundland, in October, at the first ever meeting of the North Atlantic Fisheries Ministers. The meeting was attended by representatives of Canada and our friends from the European Union, Russia, Norway, Iceland, the Faeroe Islands and Greenland. All participants agreed to implement the precautionary approach. All participants agreed to manage resources on an ecosystems basis. All participants agreed to rebuild

resources to achieve optimal yields. All participants agreed to cooperate on fisheries science. And all participants agreed to ratify, and to encourage others to ratify, this new convention.

When I began, I said that the international law that each generation strives to develop is shaped by its understanding at that time of nature and of society. I contrasted what Grotius understood and the freedom of the high seas that he propounded with what the Brundtland Commission said about the principle of sustainable development.

But in doing so, I must acknowledge, as I close, that I have been unfair. I have not given credit to aboriginal peoples for the inspiration that we have received from them. Aboriginal peoples all around the world have understood for many generations the importance of what we now call sustainable development. In recognition of their wisdom, let me conclude with a saying — one that I never grow tired of — from the Haida First Nation of Canada's Pacific Coast. The Haida say,

> "We do not inherit the land — and, indeed, the sea — from our forefathers. We borrow it from our children."

Let us all work together through this new convention to restore to full measure the rich bounties of the ocean that we today have borrowed from our children.

Mr. de Silva (Sri Lanka): The United Nations Convention on the Law of the Sea, signed in 1982, is indeed one of the greatest achievements of this Organization and may be considered to have brought about revolutionary changes in this branch of the law during the past three decades. It represents perhaps a momentous development in the long history of international law relating to the high seas. It is a matter of great satisfaction for us in Sri Lanka, which played a major role in this enterprise from its very inception and through the arduous course of its development and maturation, to witness its successful entry into force and the very significant consensus it now commands in the international community.

We are also happy to record the fact that by virtue of the procedure under article 5 of the Agreement relating to the Implementation of Part XI of the Convention, Sri Lanka, being a Contracting Party to the Convention and a signatory to the Agreement, is considered to have established its consent to be bound by the Agreement as of 28 July 1995. The increasing willingness of the international community to accept the new regime of the Law of the Sea is attested to by the fact that the total number of States that have deposited their instruments of ratification, accession or succession now stands at 83. We thank the Secretary-General for his comprehensive report on developments relating to the implementation of the Convention that have taken place during the past year. The Agreement of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks adopted in August this year is very significant.

Sri Lanka, being an island State, attaches very high priority to the question of the management and conservation of the living resources in our area of special interest and concern, namely, the Indian Ocean, and we actively participated in the high seas fisheries Conference. Pursuant to that Conference, the Parliament of Sri Lanka has this year enacted a Fisheries and Aquatic Resources Act which provides for the management, regulation, conservation and development of fisheries and aquatic resources in the island's waters, as defined by our Maritime Zones Law. This legislation would provide the necessary domestic legal framework to give effect to the Agreement of the Conference. My Government is in the process of finalizing the necessary internal procedures with a view to becoming a party to this Agreement.

The high seas fisheries Agreement lays special emphasis on regional cooperative mechanisms to achieve the goal of conservation and management of marine stocks. As an indication of our particular interest in this regard, Sri Lanka was accorded the privilege of chairing the Conference on the Indian Ocean Tuna Commission and I am happy to mention the fact that Sri Lanka has also offered to host the Indian Ocean Tuna Commission once the Agreement enters into force.

At the level of regional cooperative arrangements in this field, I must refer to a pioneering effort undertaken through Sri Lanka's initiative - the Indian Ocean Marine Affairs Cooperation (IOMAC). It was a direct outcome of the law of the sea initiative and was inspired by the resolution on development of national marine science, technology and ocean service infrastructures — annex VI of the Final Act of the Third United Nations Conference on the Law of the Sea. The significance of IOMAC was also recognized at the meeting of the International Forum on the Indian Ocean Region (IFIOR) held at Perth, and its importance in the effort to promote Indian Ocean cooperation in maritime affairs has been acknowledged.

It is gratifying to note the general support for building on existing regionally based research institutions and networks which will stimulate marine scientific research and development and the transfer and dissemination of marine technology. We look forward to the day when marine technology will be made available even to the less advanced States on fair and reasonable terms and conditions, with due regard for all legitimate interests, including the rights and duties of holders, suppliers and recipients of technology.

The establishment of the International Tribunal for the Law of the Sea in accordance with annex VI of the Convention is a notable event, and we observe that the practical arrangements for its proper functioning are being undertaken but that a great deal of work, remains to be done by the Secretariat to ensure its effectiveness. We are pleased to note that work under the fellowship programme set up to commemorate the late Shirley Amerasinghe, who was President of the Third Conference on the Law of the Sea, is currently in progress. The fellowship offers postgraduate-level research and training in the field of the law of the sea, in particular to developing countries. Sri Lanka supports United Nations assistance in this field and has contributed to the fellowship programme. We urge other countries in a position to do so to contribute to the further development of educational activities on the law of the sea.

Finally, may I express our appreciation and thanks for the work of the Division for Ocean Affairs and the Law of the Sea for the valuable service rendered in providing us with up-to-date information and data on the manifold activities connected with this subject.

Mr. Jull (Australia): My delegation is pleased to co-sponsor and support the three draft resolutions on the law of the sea, and the sustainable use and conservation of the marine living resources of the high seas.

1995 marked a year of consolidation for the law of the sea after the entry into force of the Convention in 1994. The next phase, that of institution-building, has clearly begun. While progress has been made, the international community would have to admit that it has not been wholly successful in this phase so far. In particular, the deadlock in proceeding to the election of the Council of the International Seabed Authority has been regrettable. It has had the additional consequence that elections for the Secretary-General of the Authority could not take place, leaving the Authority in a most unfortunate situation. We hope that this can be remedied soon, and urge all countries to approach the coming informal consultations on this issue in a spirit of cooperation and good faith.

On a brighter note, preparations for the establishment of the International Tribunal for the Law of the Sea and the Commission on the Limits of the Continental Shelf are proceeding relatively smoothly. The elections for these two bodies will be a major feature of the coming period. Australians will be candidates in both elections.

Undoubtedly, the highlight of 1995 has been the conclusion of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. Finalization of the Agreement sets the scene for substantial improvements in the management of some of the world's most valuable fisheries. Australia was among the first to sign the Agreement yesterday, and we pay tribute to the skill and patience of Ambassador Satya Nandan, who so ably chaired the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks for all of its three years.

We welcome the fact that the Agreement is in legally binding form and establishes a regime that addresses the full range of concerns relating to the conservation and management of straddling fish stocks and highly migratory fish stocks. The cornerstone of the Agreement is improved cooperation between States, with recognition of the need for flexibility in the mechanisms for achieving regional cooperation. At the same time, the Agreement establishes a much-needed, detailed prescription on flag-State responsibilities and sets minimum standards for control of fishing operations on the high seas.

Key imperatives incorporated in the Agreement include the establishment of general principles for management, with specific provisions on application of the precautionary approach, minimum standards for data collection and sharing, compulsory and binding dispute settlement and strong provisions on port-State controls.

The Conference grappled with difficult issues relating to enforcement and both coastal States and distant-water-fishing nations should feel proud of the fruits of their hard work. They have succeeded in producing balanced provisions that confirm the primary responsibility of the flag State in compliance and

enforcement, but also provide for development of cooperative mechanisms for monitoring, control and surveillance, including scope for enforcement action by non-flag States. The final text on non-flag-State enforcement represents a significant development of international law, one which is compatible with but also builds upon the law of the sea Convention.

The Agreement will enhance global management of straddling fish stocks and highly migratory fish stocks through strengthening regional organizations and arrangements and establishing clear principles and standards to guide decision makers at the regional level. Its regime will make a major contribution to resource security, focusing as it does on measures to achieve long-term conservation of fishery resources that respect the interests of coastal and fishing States alike. Australia's signature of the Agreement signals our full support for the regime it creates and our commitment to the principles it embodies.

As in previous years, the draft resolution on drift-net fishing, unauthorized fishing and fisheries by-catch and discards has our full support. All recent international fisheries initiatives, such as the Agreement and the Food and Agriculture's Code of Conduct for Responsible Fisheries, have highlighted the need for development and use of selective fishing gear and the adoption of measures to reduce incidental catch and minimize waste in fisheries. The decision to stop drift-net fishing on the high seas has been a significant step in this regard, although concerns remain at continued drift-netting in some high seas areas. Australia would urge all members of the international community to work for the full and effective implementation of General Assembly resolution 44/225 of 22 December 1989 and subsequent resolutions, as well as the Wellington Convention, which prohibits the use of long drift-nets in the South Pacific.

Finally, we reiterate our comments of last year concerning the importance of strengthening the Division for Ocean Affairs and the Law of the Sea in the United Nations Secretariat. The developments of the past year have served to underline the importance of a central body with responsibility for compiling information on the law of the sea and its implementation by States and in assisting States to carry out their obligations thereunder. As the goal of universal participation in the law of the sea draws ever closer to being achieved, the Division for Ocean Affairs and the Law of the Sea is playing a vital role, which in this regard becomes even more significant.

Mr. Shvedenko (Ukraine) (*interpretation from Russian*): The United Nations Convention on the Law of the Sea is a monumental achievement. It regulates all aspects of human activities in the world's oceans. It establishes a balance between the interests of many States, taking into account their geographic location, economic conditions and political aspirations. The Convention's entry into force has clearly shown where problems in this area remain to be resolved by the international community.

The Convention envisages the establishment of three institutions of vital importance to its implementation. The International Seabed Authority has already been established. We express the hope that at its second session the Assembly of the Authority will elect the members of the Authority's Council and its Secretary-General. When the International Tribunal for the Law of the Sea is established, it will play a central role in the peaceful settlement of any disputes arising in connection with the Convention. The activities of the Commission on the Limits of the Continental Shelf should ensure a just and rational utilization of the mineral and other resources in that part of the world's oceans.

At the Meeting of States Parties to the Convention, a decision was made to defer the election of judges to the International Tribunal for the Law of the Sea to August 1996. Similarly, the election of members of the Commission on the Limits of the Continental Shelf was deferred to March 1997. This was done in order to allow additional time to those countries that have not yet done so to ratify the Convention. We believe that this again demonstrates the international community's desire to have the kind of Convention that is not only universally acceptable but also applicable to all countries.

Mr. Reyn (Belgium), Vice-President, took the Chair.

Ukraine's position on the Convention is well known. In the General Assembly and other forums, we have frequently spoken out in support of this extremely important international treaty. Ukraine is now considering the question of ratifying the Convention. As to the Agreement relating to the Implementation of Part XI of the Convention, Ukraine signed it on 28 February 1995.

We also pay tribute to the Secretary-General for his report on the law of the sea, contained in document A/50/713. It provides a useful survey of developments relating to the Convention and of important measures being undertaken by the Division for Ocean Affairs and

the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat. The report clearly affirms that the Convention provides a means for resolving peacefully and cooperatively all questions relating to the sea.

Ukraine continues to review its national legislation in order to bring it into full conformity with the Convention. On 16 May 1995, the Ukrainian Parliament adopted an Act establishing an exclusive maritime economic zone. The Act entered into force on 1 September 1995. A brief summary of it is contained in paragraph 28 of the Secretary-General's report in document A/50/713. The text of the Act will also appear in issue No. 30 of the Law of the Sea Bulletin, published by the Division for Ocean Affairs and the Law of the Sea.

The Ukrainian economic zone will extend 200 nautical miles from the lines delimiting Ukrainian territorial waters. The delimitation of the economic zone has been established in accordance with Ukrainian legislation through the conclusion of agreements with States whose coastlines are near or opposite those of Ukraine, on the basis of universally recognized principles and criteria of international law and in order to achieve a fair settlement of this question.

In accordance with article 5 of the Act, Ukraine will cooperate with other States in coordinating the management, conservation, exploration and optimum exploitation of the living resources of their economic zone. We also intend to cooperate in scientific research and in the protection and preservation of the maritime environment. In view of the critical ecological situation of the Black Sea, Ukraine calls upon all States of the region to take urgent and essential steps in this field. As for Ukraine, its Cabinet of Ministers has already prepared and presented to the Ukrainian Parliament a draft State programme for the protection of the Azov and Black Seas.

In particular, we should like to emphasize that article 32 of the Act recognizes the supremacy of international treaties in this area. I quote:

> "Where the United Nations Convention on the Law of the Sea of 1982 or international treaties concluded by Ukraine have established norms different from those contained in this Act, the norms of the Convention or of the relevant international treaty shall apply."

This year, the Ukrainian Parliament adopted a merchant marine code that will help to promote more effective use of Ukraine's considerable potential in the areas of fishing, navigation and maritime trade.

At the beginning of my statement I referred to the fact that the coming into force of the Convention has emphasized the need to find an early solution to unresolved problems connected with the use of marine resources. We believe that one such problem was resolved yesterday with the signing of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. Ukraine is one of the signatories.

The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks was charged with finding a solution to such problems as the lack of management of fisheries on the high seas, the over-exploitation of certain fish resources, unregulated fishing and — equally important — the lack of cooperation between States. We believe that, by and large, the Conference managed to find solutions to these problems.

In view of the importance of fisheries to the economy of Ukraine, I should like to dwell briefly on some of the problems that the country still needs to settle. Ukraine's fishing industry is developing in three main areas: oceanic fishing and harvesting of marine products; coastal fishing and mariculture; and the rearing and harvesting of fish in inland waters. As there are not many fish in our coastal waters, and the catch from coastal and inland waters does not meet the needs of Ukraine's population in full, oceanic fishing is a very important source of food for us.

In view of the importance of the fishing industry and of its contribution to the economy of my country, we have set up a Ministry of Fisheries, which I head. In the middle of 1995 the total number of vessels in our fishing fleet was 246. Ukrainian fisheries also have approximately 40 refrigerator ships. The main areas in which Ukrainian fishermen currently operate are the central-east Atlantic, the south-east Atlantic, the Atlantic sector of Antarctica and the south-west Pacific.

It is very important to Ukraine that there be international agreements on rational utilization of the living resources of the world's oceans, both in the economic zones and on the high seas. Our country is participating actively in the international community's

efforts to preserve the sea environment and to maintain and manage the fish stocks.

The delegation of Ukraine was actively involved in the work from the very beginning of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks. A number of proposals by the Ukrainian delegation were included in the Agreement, and we helped to elaborate compromise solutions on many other points. The participants in the Conference were able, to a large extent, to strike a balance between the interests of the coastal States and those of countries involved in remote fishing.

In our view, it is very important that agreement has been reached on the need to elaborate measures to preserve fish stocks in the high seas — measures that should prove compatible with national laws concerning protection in the economic zones. The Agreement sets out very clearly the actual rights and obligations of the port and flag States, the role of inspections, the machinery for the resolution of disputes and the role of international fishing organizations. The adoption, signature and ratification of the Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks is a necessary and important step, which should be followed by steps to implement the Agreement and to promote the necessary international efforts to further optimize the rational use of the living resources of the world's oceans.

Ukraine has begun work to prepare a fisheries law. In the process, it is taking into account the provisions of the Convention of 1982 and the Agreement that was signed yesterday. Ukraine is open to wide international cooperation and is doing everything possible to ensure that it is a useful and equal member of the world community when it comes to resolving such important problems as the long-term management and rational utilization of the fish resources of the world's oceans.

In accordance with the United Nations Convention on the Law of the Sea, Ukraine has already initiated cooperation with other countries with regard to the management of fishing on the high seas. My country has been a member of the Antarctic committee for more than a year. In addition, we are looking into the possibility of membership of other international organizations, and we are a party to a number of bilateral agreements on cooperation in the area of fisheries.

Ukraine is one of the sponsors of the draft resolution on the law of the sea (A/50/L.34) so ably introduced by Ambassador Nandan of Fiji. The text of this draft is balanced and very carefully worded, and it deserves the General Assembly's support. It reaffirms the importance of the General Assembly's regular consideration and review of developments relating to the law of the sea. The draft resolution confirms the mandate that resolution 49/28 gives the Secretariat to continue its extremely useful activity aimed at achieving wider acceptance and rational and consistent application of the provisions of the Convention.

The Division for Ocean Affairs and the Law of the Sea continues to be a catalyst for activities in this area. It also supports related national and regional initiatives of States. Its studies, information, technical guidance and annual reports on and surveys of the law of the sea and its policies in this connection continue to be of tremendous usefulness to States that would otherwise have no access to such material. The annual surveys and reports will become even more valuable after the establishment of the institutions and organs provided for in the Convention, as it will then be possible to have a comprehensive and interdependent approach to all matters connected with the law of the sea, while respecting the specific spheres of competence of each organization. Ukraine supports this trend in the activities of the United Nations Secretariat.

This year Ukraine is also a sponsor of draft resolution A/50/L.35, relating to the Agreement for the implementation of the provisions of the Convention regarding the conservation of fish stocks, which was submitted under the agenda item on "Environment and sustainable development: sustainable use and conservation of the marine living resources of the high seas". A further draft resolution — A/50/L.36 — has been submitted under the same sub-item. We invite members of the General Assembly to adopt all three draft resolutions by consensus.

Mr. Razali (Malaysia): The Malaysian delegation would like to thank the Secretary-General for his comprehensive report on the law of the sea. However, we hope that in the future the report will be made available earlier so that delegations can seriously study all the important issues it contains.

It has now been just over a year since the Convention on the Law of the Sea entered into force, nearly 12 years after its signing in 1982. The Convention established a comprehensive framework for the regulation of marine space, along with the accompanying rights,

responsibilities and obligations of States. We have now moved from the preparatory to the implementation stage and have begun setting up the institutions established under the Convention.

The Malaysian delegation participated in the Meetings of States Parties as an observer. We wish to express our appreciation to Ambassador Satya Nandan for his able leadership of those meetings.

On the subject of the Tribunal, the first election, which, according to article 4 of the statute was to have been held within six months of the entry into force of the Convention, was deferred to 1 August 1996 by the first Meeting of States Parties. The Tribunal, when elected, will become a specialized judicial institution dealing exclusively with disputes concerning the law of the sea. In exercising its jurisdiction, the Tribunal will apply the Convention and other rules of international law not incompatible with the Convention, such as private and public international law; maritime, shipping and admiralty law; and mining and environmental law. In order to ensure the Tribunal's credibility and stature, it is absolutely imperative that only those with recognized competence in the field of the law of the sea and who enjoy the highest reputation for fairness and integrity be elected. In so doing, we should be faithful to the principles of representation of the main legal systems of the world and of equitable geographical distribution. To have the best, we should also be prepared to pay for the best.

The financing of the Tribunal will obviously have to be borne by the States Parties once the 21 members of the Tribunal have been duly elected. However, my delegation is of the view that any expenses incurred during the pre-election period, which we understand might amount to $191,500, should be borne by the United Nations. This is because these are expenses incurred for activities to be undertaken by the Secretary-General and not by the Tribunal itself.

The first session of the International Seabed Authority was held this year. Despite having held three meetings, the Authority was, unfortunately, unable to elect a Council, a Secretary-General or a Finance Committee. My delegation sincerely hopes that the informal inter-sessional consultations to be held this week in New York will help remove the present impediments and make it possible for the Council, the Secretary-General and the Finance Committee to be elected when the Authority convenes again, in Kingston, in March of next year.

My delegation also notes the successful outcome of the United Nations Conference which led to the adoption of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. We see this Agreement, which was opened for signature yesterday, as an important vehicle for global cooperation. It will ensure the long-term sustainability of these fish stocks while at the same time promoting the objective of their optimum utilization. States should apply the precautionary approach widely in the conservation, management and exploitation of these stocks in order to protect living marine resources and preserve the marine environment. In the event that disputes arise, States should make every effort to settle them by peaceful means.

While on this subject, I would like to note that we should also begin to accord more attention to the destructive effects of large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's seas and oceans. This is an issue which could become very contentious if not appropriately handled at an early stage. My delegation joins others that have called for urgent international action on this issue. As far as Malaysia is concerned, we have already taken appropriate regulatory steps with regard to drift-net fishing so as to conserve the fishery and turtle resources in our waters. We have also taken similar steps on trawl-net fishing to reduce by-catch and discards.

The international community has laboured so hard over so many years to put into place a legal regime to govern matters involving the law of the sea. It must therefore be our common responsibility to guarantee that this international regime is not wrecked by unilateral, arbitrary action by any State. My delegation is particularly perturbed over the recent spate of nuclear tests carried out in the South Pacific region and the consequent detrimental effects they have on the marine structures and marine environment of the region. We join international public opinion in demanding that those tests cease forthwith. States, the relevant bodies of the United Nations, non-governmental organizations and other organizations concerned with this issue should begin serious studies on the detrimental effects of such tests on marine structures and marine environment.

Another issue of growing concern regarding the marine environment and food chain is the potential threat posed by nuclear warships and submarines. There are

reports of rusting nuclear warships with nuclear reactors abandoned carelessly at their bases. Some nuclear submarines have had accidents and have been lost at sea. Others have been disposed of by simply scuttling them at sea. The international community should also begin to assess the magnitude of the damage to the marine environment caused by these nuclear-related activities.

Mr. Maitland (Marshall Islands): As was stated in the general debate this year by His Excellency the Honourable Philip Muller, Minister of Foreign Affairs of the Republic of the Marshall Islands, the completion of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks is of particular importance to my delegation. He stated categorically that the Government intended to ratify the Agreement that was finalized this summer and was signed yesterday by His Excellency Ambassador Laurence Edwards on behalf of the Marshall Islands. We are indebted to the very able leadership of the Chairman of the Conference, His Excellency Ambassador Satya Nandan of Fiji. Our Minister also confirmed that the Marshall Islands has given its full support to the Ambassador in his candidature for the post of Secretary-General of the International Seabed Authority, in large part because of the outstanding leadership skills he showed during that Conference, as well as at numerous other meetings relating to matters on the law of the sea. My delegation was always impressed by the excellent manner in which he would allow all views to be expressed until he had a succinct and accurate synthesis of where the consensus lay.

The Conference was indeed a monumental journey, one upon which we embarked because we all recognized that there was a fundamental gap in the order — the law of the sea — which we had tried to impose on the world's oceans. We found that there was a need to improve conservation and management of the fisheries, since fish were being recklessly harvested from the high seas. As the Marshall Islands went from being a Trust Territory of the United Nations to becoming an independent State, the concern over our national resources became paramount. On the one hand, we wanted to reap the substantial benefits which we knew were there, while at the same time we wanted to maintain our deep-rooted tradition of conservation. In the context of modern fisheries techniques, we realized that we would have many problems without international agreement on the necessary measures.

It is the view of my delegation that we have been able to craft a balanced and comprehensive text in this Agreement. There will be some new responsibilities for the Marshall Islands, since we are indeed a flag State as well as an island State that encompasses a large area of ocean adjacent to the high seas. There will also be new opportunities for cooperation, and we are particularly mindful of the article dealing with the special requirements of developing countries.

In this regard, we will be working actively with our neighbours in the Pacific through our regional fisheries organization, the South Pacific Forum Fisheries Agency. Building on our existing partnerships, this new Agreement will give new dimensions to conservation and management in the region.

Finally, my delegation was very pleased to see that a large number of States, a total of 25, signed the Agreement, and 44 States and the European Community signed the Final Act yesterday at the reconvened sixth session of the Conference. It is our sincere hope that these countries will also speedily ratify the Agreement so that it can enter into force in due course. The Marshall Islands Government intends to put the Agreement before the *Nitjela*, its Parliament, for consideration at its January session, and we are confident that it will have a quick passage. Ambassador Edwards intends personally to bring the matter up when he visits the parliament in January. I also wish to mention that the Republic of the Marshall Islands has become a sponsor of all three draft resolutions under these two items because of the paramount importance we place on the safe and sustainable use, conservation and management of the resources of the oceans.

Mr. Poernomo (Indonesia): At the outset, my delegation would like to express its sincere appreciation to the Secretary-General for the preparation of the comprehensive report on the law of the sea before us in document A/50/713, which provides a firm basis for our important deliberations at the fiftieth session.

The entry into force of the United Nations Convention on the Law of the Sea, on 16 November 1994, stands out as one of the major efforts of the international community to establish an effective legal regime for the sustainable use and development of the seas and oceans and their resources. This landmark instrument also takes into account the diverse interests of States in the uses of the sea, whether strategic, political or economic, which are of fundamental importance for the maintenance and strengthening of international peace and security.

In this important transitional period, the Secretary-General's report aptly reflects the need to consolidate past years of State practice in the field of international law and policy on ocean issues. It is therefore gratifying that an increasing number of States are ratifying the Convention and the Agreement relating to the Implementation of Part XI of the Convention. Furthermore, other recent endeavours, including the 1995 Agreement on straddling fish stocks and highly migratory fish stocks and the work of the United Nations Conference on Environment and Development, reflect the determination of the international community to develop and strengthen the global legal order for the sustainable development of the living and non-living resources of marine and coastal waters. It is beyond doubt that all these significant developments augur well for the implementation of the Convention.

Following the entry into force of the Convention last November, it is noteworthy that three meetings of the States Parties have been convened, in accordance with article 319, paragraph 2 (e) of the Convention, based on the recommendations of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea, to address the organization of the Tribunal for the Law of the Sea, including the question of elections, and budgetary and administrative arrangements for the first phase of the work of the Tribunal, and other relevant matters. We believe that the initial cost of preparations for the work of the Tribunal should be covered by the United Nations budget. In this regard, it was agreed that the election of 21 members of the Tribunal would be deferred to August 1996 and that the revised draft agreement on the privileges and immunities of the International Tribunal for the Law of the Sea would also be finalized at the next meeting of the States Parties. Another issue that should be taken into account is the financial considerations involved in the establishment of the body. In this connection, the principle of cost effectiveness should be applicable to all aspects of the work of the Tribunal, but at the same time should not undermine its effectiveness and efficiency.

As regards the International Seabed Authority, we have noted the content of the statement of the President of the Assembly of the Authority on the work of the Assembly during the third part of its first session, which is contained in document ISBA/A/L.7/Rev.1. It is our hope that the informal consultations to be held later this week will lead to workable solutions concerning the election of 36 members of the Council of the International Seabed Authority, comprising four groups representing the various interests in seabed mining, plus 18 members to be elected in accordance with the principal legal systems of the world and equitable geographical distribution, in accordance with article 161 of the Convention. This will pave the way for the appointment of a Secretary-General, enabling the Assembly to effectively discharge its tasks.

Indonesia, as a developing and archipelagic State, has attached utmost importance to securing the benefits of the new ocean regime and its untold potential to complement national development goals. It is pertinent to note that Indonesia and its neighbouring countries in the South-East Asian region have seized the initiative of promoting cooperation among themselves for resource development and rational utilization of the oceans. Within the context of strengthening regional cooperation, Indonesia was pleased to host the Informal Workshop Series on Managing Potential Conflicts in the South China Sea. We are deeply gratified by the progress achieved by the workshops, which have identified concrete and practical programmes and projects. This process has encouraged countries in the region to foster confidence-building measures through self-restraint, dialogue and cooperation. Developing and expanding cooperation in the South China Sea will not only ensure continued stability in that sea, but will also answer the urgent development needs of the peoples of the region.

During recent years, we have been witness to the depletion of living resources in some parts of the oceans and to new and increasing threats to the environment. In this regard, the protection of the marine environment and effective and balanced conservation must remain high on the agenda of the international community.

It is in this overriding context that we believe the entry into force of the Convention, the adoption of Agenda 21, the adoption of the Agreement on straddling fish stocks and highly migratory fisheries, the global plan of action on the protection of the marine environment from land-based activities, and the review of the implementation of chapter 17 of Agenda 21 by the Commission on Sustainable Development in 1996, as mentioned in the Secretary-General's report, will have a profoundly positive impact on environmental protection and sustainable resource development.

Indonesia was indeed pleased to participate in the signing, on 4 December 1995, of the Agreement and Final Act for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly

Migratory Fish Stocks. This significant event constitutes a milestone in the endeavours of the international community towards the common goal of long-term, stable and sustainable living resources of the vast oceans and seas. In this regard, Indonesia would like to express its sincere appreciation to Ambassador Satya N. Nandan for his skill and ability in chairing the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks. This important instrument, which was adopted without a vote on 4 August 1995, will facilitate the implementation of the relevant provisions of the Convention for the effective conservation and management of straddling fish stocks and highly migratory fish stocks on the high seas beyond areas of national jurisdiction, through the promotion of enhanced international cooperation for the benefit of all humankind.

The vital instrument has laid a legal regime to govern the conservation and management of fisheries resources, assuring the sustainable yield of fisheries and the protection of the earth's fragile environment based on the shared responsibility of the international community. In this regard, it calls for strengthening cooperation, including technical cooperation on bilateral, subregional, regional and multilateral levels to establish mechanisms to ensure responsible fishing on the high seas and to extend the necessary assistance to the developing countries. Such cooperation should be in accordance with the relevant provisions of the Convention and be based on North-South and South-South cooperation, as emphasized by the non-aligned countries, in enabling all States to effectively comply with the objectives of sound management and conservation. Furthermore, the Agreement has established compliance and enforcement mechanisms to enforce its provisions.

In conclusion, the Indonesian delegation deems it a distinct pleasure to co-sponsor the draft resolution on the law of the sea at this historic fiftieth session of the General Assembly. The draft at present before us reflects the continuing commitment of member States to the ideals and principles embodied in the Convention. We hope that more nations will become parties to the Convention and accede to Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, in order to achieve the goal of universal participation.

Mr. Olsen (Norway): I had the privilege of addressing the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks upon the adoption by the Conference of a binding Agreement on 4 August this year.

On that occasion I described the adoption of the Agreement as a historical event in the field of international fisheries relations. At the same time, I emphasized that the Agreement had a wider meaning and a broader significance. We had in fact provided to the world a powerful and timely example of what is best in peoples and Governments: their will to seek reasonable compromise and peaceful settlement of difficult questions, and to allow the rule of law to prevail in their relations with each other.

Having signed the Agreement on behalf of Norway yesterday, my sentiments remain the same. We have indeed achieved an Agreement which holds great promise. The challenge now is to turn the promise into reality. That requires the broadest and swiftest possible acceptance of the Agreement both in law and in fact.

In this respect I was heartened to see that such a large number of States were able to sign the Agreement on the day it was opened for signature. Those who have now signed the Agreement are under a legal obligation not to defeat its object and purpose and under a political and moral obligation to ensure rapid ratification. On our part, we have initiated preparations for ratification. We intend to submit the Agreement for the consent of the National Assembly early next year. I am hopeful that the necessary 30 ratifications for the entry into force of the Agreement will be attained without undue delay.

For those who can bring about early ratification, there is no need for provisional application, provided that the Agreement rapidly enters into force. If that should not be the case, and for those who require more time for ratification, the option of provisional application deserves consideration.

For the time being, however, and for some time to come, depending on circumstances, the Agreement should be applied de facto to the largest possible extent, irrespective of its legal status. I say this not out of disregard for the formal steps envisaged in the Agreement itself for its entry into force but out of concern for the integrity of the Agreement.

Thus, the main principles of the Agreement concerning conservation and management should be applied now, it being understood that enforcement and dispute settlement require to a large degree proper treaty relationships. Particular attention should be given to the fundamental questions of resource distribution and technical regulations. If such questions are addressed

without proper regard for the provisions of the Agreement, there is a danger that we might undermine the Agreement before it had a chance to prove itself. Thus, it is not now sufficient or adequate to build on past practice in the current negotiations on straddling and highly migratory fish stocks. Such a practice is not necessarily in conformity with the provisions of the Agreement.

Let me provide the Assembly with a few examples of what I have in mind: First, on straddling stocks, the Agreement obliges States to agree on measures necessary for the conservation of these stocks in the adjacent high seas areas. To submit that this obligation also applies in areas under national jurisdiction would clearly be contrary to the Agreement. Secondly, the main principle on compatibility of conservation and management measures is that the measures adopted within areas of national jurisdiction shall be taken into account outside such areas, and that the measures established for the high seas shall not undermine the measures adopted within areas of national jurisdiction. It is abundantly clear from the wording of the Agreement that there is no similar obligation to take into account measures adopted outside areas of national jurisdiction in the establishment of measures within such areas. There is no "vice versa" provision. Thirdly, in several instances the Agreement provides for different types of dependence on fisheries to be taken into account and used as criteria for various purposes. What sort of dependence would qualify is clearly defined in each instance. It would be wrong, therefore, to lump these criteria together into one single dependence criterion.

To sum up, the present stage is crucial, both in respect of preserving the integrity of the Agreement and in terms of ensuring its status under international law.

If we are to achieve those objectives, States have to be motivated and the Agreement has to be seen as a globally useful instrument to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks. At the same time States have to perceive the Agreement as being in their own national interest.

To assess whether that is the case, the whole picture needs to be taken into account. The fundamental choice that we are confronted with is between a comprehensive and balanced international regulation of the stocks, on the one hand, and the present status quo, on the other. It is my contention that if the present status quo is allowed to continue, everybody will stand to lose. A further depletion of major international fishery resources would inevitably occur. At the same time, the potential for further conflict on the high seas would grow, as explained by the Chairman of the Conference in his closing statement on 4 August, it would be necessary for some States — indeed they would be encouraged — to initiate unilateral action in their frustrated attempts to solve problems that can only be addressed multilaterally. The possible repercussions for the whole fabric of the law of the sea are clear for everybody to see.

These are by any standards sufficiently pressing reasons to implement the Agreement in good faith, and, in addition, the Agreement strikes a careful balance between the various national interests involved. Everybody, including my own country, has had to give something in order to make the Agreement possible. Still, it has been submitted that the Agreement goes too far in protecting the rights of some States to the detriment of others. In particular, it has been maintained that the Agreement caters excessively to the views of coastal States and fails to address the concerns of distant-water-fishing States. In my assessment this is a biased perception of the Agreement. Let me try to set the record straight.

It cannot be denied, of course that the Agreement is a good instrument from the coastal-State perspective. This, however, is not so much a reflection of a change in the fundamental principles of the 1982 United Nations Convention on the Law of the Sea; rather, it recognizes and confirms in a detailed and precise manner the pre-eminence of coastal-State interests enshrined in the 1982 Convention. At the same time, the Agreement takes full account of legitimate established interests. As pointed out repeatedly by my delegation at the Conference, it was never our intention to exclude such interests from enjoying the benefits of the Agreement. It is clear from key provisions of the Agreement, *inter alia*, articles 7 and 11, that established interests are well protected.

In this evaluation of the balance of interests, there is another important element that should not be lost sight of, lest the Agreement be regarded as a vehicle solely for the developed countries. A whole part of the instrument is devoted to the requirements of developing States. Furthermore, the interests of developing States are reflected in other key provisions of the Agreement, *inter alia*, Articles 5 and 11, and thus in addition to addressing an environmental problem of major significance, the Agreement also assumes a developmental perspective.

In a discussion of motivational factors, there is finally one particular aspect of the Agreement that merits consideration: the question of enforcement on the high seas by other States than the flag State. There can be little doubt that the provisions on enforcement in such circumstances constitute one of the essential pillars of the Agreement. There can equally be little doubt that they break new ground in international law. On the other hand, the primary responsibility of the flag State is reaffirmed and the framework for action by other States than the flag State is set out with clear safeguards against abuse. Allow me to state for the record that the Norwegian Government takes those safeguards seriously. They will be strictly adhered to. Let me also state for the record that we are ready to join with others in constructive discussions on the establishment of procedures for enforcement within the framework of the relevant organization or arrangement.

I have outlined the merits of the Agreement and why it ought to be implemented as swiftly and widely as possible. I would be remiss if I did not take this opportunity to pay a special tribute to the man who made it all possible, Ambassador Satya N. Nandan of Fiji, the Chairman of the Conference. He did a splendid job for which he deserves the highest praise.

It is my hope and my belief that our work will not have been in vain. We owe it to ourselves and to future generations to complete the process that has now been set in motion.

Let me conclude by reiterating that Norway is ready, in partnership with our friends in the North-East Atlantic region, to meet this challenge.

The President: After the adjournment of this meeting, we will hold a special commemorative meeting in memory of His Excellency Mr. Yitzhak Rabin, the late Prime Minister of Israel. All delegations are invited to attend.

The meeting rose at 12.15 p.m.